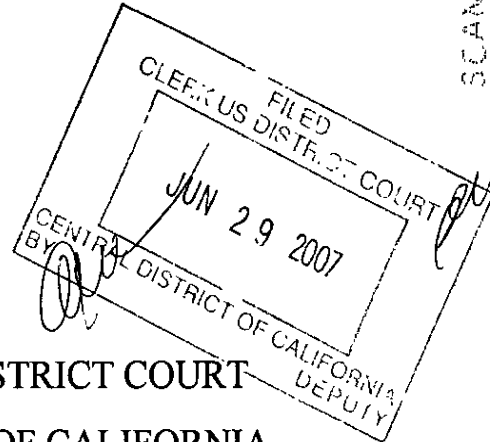


VENABLE LLP
DOUGLAS C. EMHOFF (Cal. Bar No. 151049)
JEFFREY M. TANZER (Cal. Bar No. 129437)
2049 Century Park East, Suite 2100
Los Angeles, California 90067
Telephone: (310) 229-9900
Facsimile: (310) 229-9901
E-mail: demhoff@venable.com
E-mail: jtanzer@venable.com
Attorneys for Defendant
MERCK & CO., INC.



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BENNIE HORTON, et al.,

Plaintiffs,

vs.

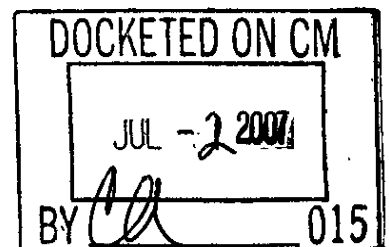
MERCK & CO., INC., a New Jersey
Corporation; McKESSON
CORPORATION, a Delaware
corporation; DOES 1-50,

Defendants.

CASE NO.: CV07-3493 FMC (PJWx)

[Related to Case Nos. CV 06-5378 FMC (PJWx), CV 06-5587 FMC (PJWx), CV 06-6398 FMC (PJWx), CV 06-7027 FMC (PJWx), CV 06-7343 FMC (PJWx), CV 06-7733 (FMC) (PJWx), CV-07-2839 (FMC) (PJWx), CV-07-3490 FMC (PJWx), CV-07-3492 (FMC) (PJWx), CV-07-3495 (FMC) (PJWx), and CV-07-3497 (FMC) (PJWx)]

**STIPULATION AND ~~PROPOSED~~
ORDER GRANTING MOTION TO
STAY PROCEEDINGS**



13

1 The parties hereto, by and through their undersigned attorneys, hereby stipulate
 2 and ask that the Court grant Merck's Motion to Stay all proceedings in this action
 3 pending its transfer to *In re Fosamax Prods. Liab. Litig.*, MDL No.1789, the
 4 multidistrict litigation proceeding ("the Fosamax MDL proceeding"), which has been
 5 established in the Southern District of New York to coordinate federal product liability
 6 actions involving FOSAMAX®. See *In re Fosamax Prods. Liab. Litig.*, 444 F. Supp.
 7 2d 1347 (Jud. Pan. Mult. Lit. 2006). This stipulation and joint request for an Order is
 8 based on the following:

9 1. On Friday, June 22, 2007, Merck filed a Motion to Stay these Proceedings
 10 pending their transfer to the Fosamax MDL Proceedings. In that motion, Merck sets
 11 forth the basis upon which it requests a stay of these proceedings.

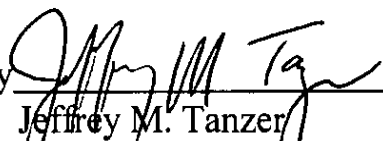
12 2. The parties stipulate and agree that a stay of this action is appropriate.

13 3. In addition, the parties stipulate and agree to waive the 30-day limitation
 14 on the filing of motions to remand on grounds other than lack of subject matter
 15 jurisdiction, as set forth in the first sentence of 28 U.S.C. section 1447(c).

16 WHEREFORE, the parties hereto stipulate that Merck's Motion for Stay may be
 17 granted, and that all proceedings in this action be stayed pending transfer of the above-
 18 captioned action to the MDL proceeding in the Southern District of New York, or until
 19 further order of the Court.

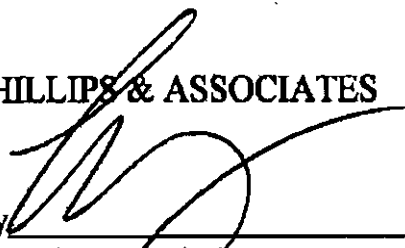
20
 21 Dated: June 28, 2007

22 VENABLE LLP

23
 24 By 
 25 Jeffrey M. Tanzer
 26 Attorneys for Defendant
 27 Merck & Co., Inc.
 28

PHILLIPS & ASSOCIATES

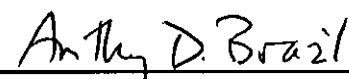
By


Robert F. Clarke
Attorneys for Plaintiffs

SCANNED

MORRIS POLICH & PURDY LLP

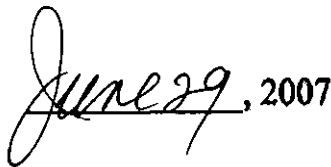
By


Anthony D. Brazil *jit*
Attorneys for Defendant McKesson
Corporation

ORDER

IT IS HEREBY ORDERED that Merck's Motion for Stay is granted, and that all proceedings in this action are stayed pending transfer of the above-captioned action to the MDL proceeding in the Southern District of New York, or until further order of the Court.

DATED:


June 29, 2007


United States District Judge

VENABLE LLP
2549 CENTURY PARK EAST, #2100
LOS ANGELES, CALIFORNIA 90067
(310) 228-9900

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 2049 Century Park East, Suite 2100, Los Angeles, California 90067.

On June 28, 2007, I served the foregoing document(s) described as **STIPULATION AND [PROPOSED] ORDER GRANTING MOTION TO STAY PROCEEDINGS** on the interested parties in this action addressed as follows:

SEE ATTACHED SERVICE LIST

☒ By placing true copies thereof enclosed in a sealed envelope(s) addressed as stated above.

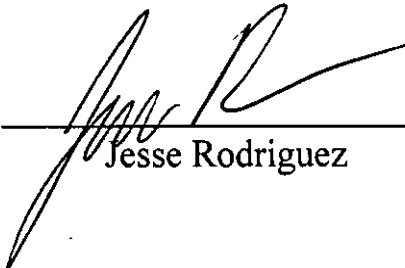
☒ **BY MAIL (CCP §1013(a)&(b)):** I am readily familiar with the firm's practice of collection and processing correspondence for mailing with the U.S. Postal Service. Under that practice such envelope(s) is deposited with the U.S. postal service on the same day this declaration was executed, with postage thereon fully prepaid at 2049 Century Park East, Suite 2100, Los Angeles, California, in the ordinary course of business.

☐ **BY OVERNIGHT DELIVERY (CCP §1013(c)&(d)):** I am readily familiar with the firm's practice of collection and processing items for delivery with Overnight Delivery. Under that practice such envelope(s) is deposited at a facility regularly maintained by Overnight Delivery or delivered to an authorized courier or driver authorized by Overnight Delivery to receive such envelope(s), on the same day this declaration was executed, with delivery fees fully provided for at 2049 Century Park East, Suite 2100, Los Angeles, California, in the ordinary course of business.

Executed on June 28, 2007 at Los Angeles, California

☐ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ **(FEDERAL)** I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.


Jesse Rodriguez

ATTACHED SERVICE LIST

Robert F. Clarke, Esq.
PHILLIPS & ASSOCIATES
3030 North Third Street, Suite 1100
Phoenix, Arizona 85012
Tel: 602 258-8900
Fax: 602 288-1671

Attorneys for Plaintiffs

Anthony G. Brazil, Esq.
MORRIS POLICH & PURDY
1055 W. Seventh Street, Suite 2400
Los Angeles, CA 90017
Tel: 213 891-9100
Fax: 213 488-1178

Attorneys for Defendant McKesson Corporation

SCANNED

VENABLE LLP
2049 CENTURY PARK EAST, #2100
LOS ANGELES, CALIFORNIA 90067
(310) 229-9900